

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:25-cr-00021-GMM
)	
DANIELLE BERTOTHY,)	
)	
Defendant.)	

NOTICE BY DEFENDANT IN ADVANCE OF STATUS CONFERENCE

Defendant Danielle Bertothy, by and through her undersigned legal counsel, Justin K. Gelfand, Joseph DiRuzzo, and Jennie Mariel Espada, respectfully file this notice in advance of the June 24, 2025 status conference.

I. Discovery

The defense has continued to review the discovery disclosed by the Government and has made it available to Ms. Bertothy during in-person, attorney-client meetings. Additionally, the defense requested and the Government made available a physical inspection of an item seized during the criminal investigation of this case. That inspection occurred in San Juan after the last status conference in this case at the ATF office. The discovery in this case is voluminous and complex, including, but not limited to, lengthy video recordings and digital devices forensically imaged.

II. Difficulties with Privileged Communications

Throughout the pendency of this case, Ms. Bertothy has been in pretrial detention and has been housed at MDC Guaynabo. When in San Juan, out-of-town undersigned counsel has been provided access to Ms. Bertothy for the purposes of privileged and confidential meetings. Initially, the MDC also cooperated with respect to permitting Ms. Bertothy to participate in privileged phone calls with her out-of-town counsel. However, since the last status conference (and, to some extent,

beforehand), the MDC has not followed through on arranging those privileged phone calls. At MDC's direction, those requests have been made through the "Unit Team." To be fair, the Unit Team has, at times, been responsive to such requests but then has not made Ms. Bertothy available on the dates and times during which calls have been scheduled. The defense intends to continue working with the MDC in this respect but deemed it appropriate at this stage to raise this problem with the Court to the extent an Order of the Court may be appropriate.

III. Medication

Ms. Bertothy needs certain medication that has not been provided to her. The MDC has asked that she purchase the particular medication from commissary, but it has apparently not been available at commissary for her. Similarly, the defense intends to continue working with the MDC in this respect but deemed it appropriate at this stage to raise this problem with the Court to the extent an Order of the Court may be appropriate.

IV. Expert Witness Disclosure(s)

After the last status conference, this Court set a deadline for the defense to disclose its expert witness report(s) to the extent the defense intends to utilize an expert witness. As such, the defense has been working diligently in providing its possible expert the Government's recently disclosed report and the relevant underlying discovery. While the defense is working quickly in an effort to meet the Court's deadline, the defense is concerned that may not be possible and intends to request an extension at the status conference this week.

To be clear, on January 25, 2025, the defense formally and in writing requested compliance with Federal Rule of Criminal Procedure 16(a)(1)(G) from the Government. Throughout the next several months, the Government alluded to a fire investigation report that was not yet completed and the defense followed up again by email on April 17, 2025. Soon thereafter, the Government provided an undated fire investigation report. To date, the Government has not yet fully complied with Rule

16(a)(1)(G), which requires not only the opinions and reasons and bases for the opinions, but also the witness's qualifications, including a list of all publications authored in the previous 10 years and a list of all other cases in which, during the previous 4 years, the witness has testified as an expert at trial or by deposition. *See* Fed. R. Crim. P. 16(a)(1)(G)(iii) ("Contents of Disclosure"). The defense is continuing to work as diligently as possible and intends to fully comply with its obligations regarding expert disclosures as soon as is practicable, but may require an extension of the current deadline, which is June 26, 2025.

V. Mitigation Information

Undersigned counsel Jennie Espada requested, and the Government extended, an extension of the mitigation information pursuant to this Court's practices and procedures. The defense has been working diligently to obtain and provide that information to the Government.

We intend to have the mitigation ready by the end of the business day. Unfortunately, it could not be prepared earlier because of the death of a close relative and other counsel being in trial. We have consulted with the Government. AUSA Cordero did not object to extend the deadline for mitigation until today, June 23rd.

VI. Conclusion

The defense is continuing to work hard in evaluating this case, providing relevant information with respect to mitigation to the Government, discussing the discovery with Ms. Bertothy, investigating the case and preparing for a possible trial, and ensuring that Ms. Bertothy understands her options with respect to how to proceed with this case. While the defense has been effective in working diligently in all such respects, certain aspects of the case has taken more time than the Court's initial deadlines have allowed based on a combination of the voluminous discovery, certain complexities presented by the case, working with a possible expert witness, and challenges with respect to privileged and confidential attorney-client communications between Ms. Bertothy and her

out-of-town legal counsel.

In any event, the purpose of this notice is simply to assist this Court in advance of the status conference this month. The defense appreciates the Court's consideration of these issues and others raised at the status conference.

CERTIFICATION: I hereby certify that a true and exact copy of the foregoing motion was filed with the CM/ECF system of the Court which will send automatic notification to all parties of record. On this 23rd of June, 2025.

Respectfully submitted,

Margulis Gelfand DiRuzzo & Lambson

/s/ Justin K. Gelfand
JUSTIN K. GELFAND
JOSEPH DIRUZZO
7700 Bonhomme Ave., Ste. 750
St. Louis, MO 63105
Telephone: 314.390.0234
Facsimile: 314.485.2264
justin@margulispelfand.com
jd@margulispelfand.com
Counsel for Ms. Bertothy

s/Jennie Espada, Esq.
USDC #2250003
Espada.esquire@gmail.com
PO Box 13811
San Juan, PR 00908
(787) 633-7189